

[10.]

(a) Any person who wilfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in §§ 6 or 7 of this article, or who commits any act preliminary thereto, or in furtherance thereof, is guilty of a felony and upon conviction is subject to imprisonment not exceeding ten years.

(b) Any person who wilfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in §§ 8 or 9 of this article, or who commits any act preliminary thereto, or in furtherance thereof, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1000 or imprisonment not exceeding two years or both.

(c) The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually wilfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of same shall, for the purpose of §§ 6 through 9 of this article constitute an attempt to burn such building or property and shall carry the penalty prescribed in subsection (a) or (b), whichever applies.]

COMMITTEE NOTE: The Committee recommended that subsections (a) and (b) of this section prohibiting attempts be repealed on the basis that the common law on attempts adequately covers these offenses. As with the causing, aiding, counseling, and procuring provisions stricken in earlier sections, the Committee in the future intends to study including a general Code-wide provision covering attempts.

The Committee recommended that the provision in subsection (c) defining an attempted arson or malicious burning be retained. It is included in new § 9B(a) below.

9B.

(A) PLACING OR DISTRIBUTING ANY FLAMMABLE, EXPLOSIVE, OR COMBUSTIBLE MATERIAL OR SUBSTANCE OR DEVICE IN OR NEAR A STRUCTURE OR PERSONAL PROPERTY IN PREPARATION FOR BURNING THAT STRUCTURE OR PROPERTY SHALL BE CONSIDERED AN ATTEMPT TO BURN THAT STRUCTURE OR PROPERTY.

(B) IF A STRUCTURE IS DIVIDED INTO SEPARATELY OWNED OR LEASED UNITS, EACH UNIT SHALL BE CONSIDERED A SEPARATE STRUCTURE FOR PURPOSES OF A PROSECUTION UNDER THIS SUBHEADING.

COMMITTEE NOTE: Subsection (a) retains the current law (now in § 10 above) defining an attempt for purposes of this subheading. The other changes are stylistic.

Subsection (b) is intended to codify the holding of the Court of Appeals in Richmond v. State, 326 Md. 257, 604 A.2d 483 (1992) concerning the unit of prosecution.